

THIS OPINION WAS NOT WRITTEN FOR PUBLICATION

The opinion in support of the decision being entered today (1) was not written for publication in a law journal and (2) is not binding precedent of the Board.

Paper No. 35

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte AKINARI MORI, KOICHIRO NAKATANI
and RENJIRO OKANO

Appeal No. 97-0399
Application 07/873,113¹

ON BRIEF

Before FRANKFORT, STAAB and McQUADE, *Administrative Patent Judges*.

STAAB, *Administrative Patent Judge*.

DECISION ON APPEAL

This is a decision on an appeal from the final rejection of claims 1, 8, 9, 14 and 16. Claims 4-7, 11-13, and 17-19,

¹ Application for patent filed April 24, 1992.

the only other claims remaining in the application, have been allowed.

As explained on page 2 of appellants' specification, the present invention pertains to an apparatus that can serve as a monopod for supporting a camera or the like (Figure 1), and also a so-called "baby tripod" by positioning fixed length auxiliary legs at an angle with respect to the monopod body when the monopod body is contracted to have its shortest length (Figure 2). Independent claim 14 is representative of the claimed subject matter and reads as follows:

14. An apparatus for supporting a video camera comprising:

a monopod body extensible in a telescopic fashion for supporting said video camera as a monopod support;

a bracket fixedly secured to an upper end of said monopod body; and

two auxiliary legs of a fixed length pivotally attached to said bracket, said auxiliary legs being rotatable from a position generally parallel with said monopod body to an inclined position at a predetermined angle with respect to said monopod body to provide, in conjunction with said monopod body, a tripod support for said video camera when said auxiliary legs and said monopod body are of a substantially equal length.

The references of record relied upon by the examiner in

Appeal No. 97-0399
Application 07/783,113

support of a rejection under 35 U.S.C. § 103 are:

Dalton	2,668,682	Feb. 9, 1954
Kawazoe	3,836,986	Sept. 17, 1974
Kohno	4,640,481	Feb. 3, 1987
Horn et al. (Horn)	5,065,249	Nov. 12, 1991

Claims 1, 8, 9, 14 and 16 stand rejected under 35 U.S.C. § 103 as being unpatentable over Horn in view of Dalton, Kohno, and Kawazoe. The examiner's findings of fact are as follows:

Horn et al discloses the invention substantially as claimed. Specifically, Horn et al discloses a monopod body extensible in a telescopic fashion, a bracket (mounting assembly 14) fixedly attached to an upper end of the monopod body. See column 3, lines 17-19, "The camera mounting assembly 14 is rigidly attached to the upper shaft section 10a." Horn et al, however, does not disclose a panhead and "two auxiliary legs" pivotally attached to the bracket. Dalton clearly teaches that it is known in the art to pivotally attach a panhead to a bracket which holds legs that support the bracket. . . . Kohno, on the other hand, clearly teaches that it is known in the art to provide two auxiliary legs of a fixed length in conjunction with another leg to form a tripod "when the tripod function is desired." Kawazoe further teaches that it is well known in the art to convert a monopod support to a tripod support. [answer, pages 4-5]

Based on the above, the examiner has made the following

Appeal No. 97-0399
Application 07/783,113

conclusion of obviousness:

Given the teachings of the secondary references [Dalton, Kohno, and Kawazoe], it would have been obvious to one having ordinary skill in the art to provide the pan head and the two auxiliary legs of a fixed length pivotally attached to the bracket of Horn et al to obtain the claimed invention for the purpose of achieving a versatile camera support.
[answer,
page 5]

OPINION

Having carefully considered the content of the claims on appeal, the teachings of applied references and the respective viewpoints advanced by appellants and the examiner, we shall not sustain the examiner's rejection.

At the outset, we observe that each of the independent claims on appeal calls for a support apparatus comprising a monopod body extensible in a telescopic fashion for supporting a camera as a monopod support, and "two auxiliary legs of a fixed length" pivotally attached to a bracket fixedly secured to an upper end of the monopod body. Consistent with the appellants' specification, we interpret the terminology "two auxiliary legs of a fixed length" to mean that the auxiliary legs are non-adjustable with respect to their length.

Horn, the primary reference, relates to a portable boom

for enabling a single cameraman to view and record an event that is too dangerous to view closely or directly, such as a gun-fight around a corner of a building, or an event that is blocked from view by a crowd (column 1, lines 14-22; column 2, lines 10-32). To this end, Horn provides a foldable boom having a fixed length upper section 10a and a telescoping lower section 10b. The boom supports a video camera 12 at an upper end and a video monitor 18 at a position intermediate its length. Horn's support further includes a control panel 40 for remotely controlling the camera (column 4, lines 25-53).

The flaws in the rejection begin with the primary reference. We will concede to the examiner that Horn's fixed length upper section 10a and telescoping lower section 10b collectively constitute a monopod body extensible in a telescopic fashion for supporting a camera. However, given the purpose of Horn's apparatus as noted above, it is highly unlikely that one of ordinary skill in the art would have found it desirable, as a general proposition, to pivotally mount fixed length auxiliary legs to the mounting bracket 14 atop the fixed length upper section 10a for the purpose of

making Horn's device convertible into a tripod support, as proposed by the examiner. In this regard, it would appear that such a modification would result in a device that is unwieldy and ill suited for use as either a monopod or a tripod.

Turning to the secondary references, while Dalton, Kohno, and Kawazoe each deal in one form or another with tripod supports, their collective teachings do not serve to make up for the basic deficiencies of Horn. The situation here before us appears to be of the type presented in *In re Fritch*, 972 F.2d 1260, 1266, 23 USPQ2d 1780, 1784 (Fed. Cir. 1992), where our reviewing court stated:

It is impermissible to use the claimed invention as an instruction manual or "template" to piece together the teachings of the prior art so that the claimed invention is rendered obvious. This court has previously stated that "[o]ne cannot use hindsight reconstruction to pick and choose among isolated disclosures in the prior art to deprecate the claimed invention" (citations omitted).

Simply put, it is our view that the examiner has impermissibly used the appellants' disclosure as a guide in interpreting the teachings of the secondary references in order to reconstruct a facsimile of the claimed subject matter.

Appeal No. 97-0399
Application 07/783,113

The decision of the examiner is reversed.

REVERSED

CHARLES E. FRANKFORT)	
Administrative Patent Judge)	
)	
)	
)	
LAWRENCE J. STAAB)	BOARD OF PATENT
Administrative Patent Judge)	APPEALS AND
)	INTERFERENCES
)	
)	
JOHN P. McQUADE)	
Administrative Patent Judge)	

Appeal No. 97-0399
Application 07/783,113

Ronald P. Kananen
Marks & Murase
2001 L St., NW Ste. 750
Washington, DC 20036